

REMARKS

Claims 1-20 are pending in the application. Claims 1-4, 6-8, 10, 12-14, and 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hanson et al. (U.S. Patent No. 4,644,727 or "the '727 patent"). Claims 9 and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hanson et al. in view of an examiner's modification. Claims 1, 3, 5-6, 11, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fisher (U.S. Patent No. 6,082,068 or "the '068 patent"). Claims 18-19 have been withdrawn by the Examiner as being drawn to a non-elected invention and are hereby cancelled without prejudice. Claim 15 has been withdrawn by the Examiner as being drawn to a non-elected species. New claims 21 and 22 are hereby submitted as "Withdrawn – new", *see* MPEP § 714(II)(C)(E), being drawn to additional species but otherwise requiring all of the limitations of generic independent claim 1.

Rejection of claims 1-4, 6-8, 10, 12-14, and 17 under 35 U.S.C. § 102(b) over Hanson et al.

Independent claims 1, 6, and 12 and dependent claims 2-4, 7-8, 10, 13-14, and 17 stand rejected as being anticipated by Hanson et al. Independent claim 1 has been amended to require, in part, "[a] plurality of receptacles comprising at least three receptacles positioned at different and equally spaced apart heights from the bottom of the concrete form." Independent claim 6 has similarly been amended to require, in part, "multiple receptacles comprising at least three receptacles positioned at different and equally spaced apart heights from the bottom of the concrete form." Independent claim 12 has also been amended to require, in part, "at least two receptacles-positioned at different heights... along said length of said leg... wherein said multiple receptacles of one of said legs are positioned at different heights with respect to said multiple receptacles of the other of said legs." Support for the presently submitted amendments may be found at page 8, lines 3-23 and in Figures 1-7 of the application specification (as filed). The Applicants respectfully submit that Hanson et al. neither discloses nor suggests a multi-level post-tension cable support chair having the claimed characteristics.

AMENDMENT AFTER FINAL ACTION

Appln. No. 10/713,444

Docket No. 442005-00108

The Hanson et al. reference discloses a stand chair for supporting prestressing cable. The strand chair includes a lower portion (10) including a plurality of strand receiving cups (12) and an upper portion (29) including a single strand receiving cup (30). '727 patent, col. 2 ll. 17-22 and ll. 67-68. The strand chair, however, is shown as providing at most two receptacles positioned at different heights from the bottom of a concrete form. *See id.* at Fig. 10. We note for the record that persons of skill in the art would not use the bottommost receiving cups (12) to receive prestressing cable because such embedment would violate minimum concrete cover requirements under generally accepted design practices. *See* American Concrete Institute Code 318-05. Even if the bottommost receiving cups (12) are considered to be receptacles contributing to "at least three receptacles positioned at different... heights," the strand chair does not include "at least three receptacles positioned at... equally spaced apart heights" as required in claim 1. Similarly, the strand chair does not include "at least three receptacles positioned at... equally spaced apart heights" as required in claim 6. In addition, the strand chair is vertically symmetric about a vertical axis and therefore does not satisfy the requirement "wherein said multiple receptacles of one of said legs are positioned at different heights with respect to said multiple receptacles of the other of said legs." Therefore, independent claims 1, 6, and 12 and dependent claims 2-4, 7-8, 10, 13-14, and 17 cannot be anticipated by Hanson et al.

Furthermore, the Hanson et al. reference is directed to a separate problem from the problem addressed by the Applicant's invention. Hanson et al. teaches that its strand chair is used to support up to three lower strands above the bottom of a concrete form, the strands being inserted in either a widely spaced or a closely spaced set of cups depending upon the orientation of the lower portion 10. *See* '727 patent, col. 2 ll. 50-54. Hanson et al. further teaches that its strand chair may be used to support one upper and, optionally, one lower strand at predetermined heights by interlocking a lower portion with an optional upper portion 29. *See id.* at col. 3 ll. 10-15. Thus, Hanson et al. teaches that each strand is supported at a predetermined height above the bottom of a concrete form, the height being fixed by the configuration of the particular strand

AMENDMENT AFTER FINAL ACTION

Appln. No. 10/713,444

Docket No. 442005-00108

chair. Hanson et al. does disclose an extension piece 24, *see id.* at col. 3 ll. 31-36, however the reference teaches only that the extension may be used to position the top strand as close to the upper surface of a concrete layer as possible. The Hanson et al. reference neither discloses nor suggests the provision of a strand chair or multi-level post-tension cable support chair that provides a plurality of receptacles to support a post-tension cable in a "drooping" orientation during the construction of a molded concrete construction within a form. The Applicant's disclosed devices uniquely permit a construction worker to employ multiple identical copies of a support chair to position a post-tensioning cable in the desired configuration without the inventory management complexities inherent in the use of multiple, non-identical support chairs having, in essence, a single specified receptacle height.

Rejection of claims 9 and 16 under 35 U.S.C. § 103(a) over Hanson et al.

Dependent claims 9 and 16 depend upon independent claims 6 and 12, respectively, and for at least the reasons stated above cannot be unpatentable over Hanson et al.

Rejection of claims 1, 3, 5-6, and 11 under 35 U.S.C. § 102(b) over Fisher

Independent claims 1 and 6 and dependent claims 3, 5, and 11 stand rejected as being anticipated by Fisher. Independent claims 1 and 6 have been amended as indicated above. The Applicants respectfully submit that Fisher neither discloses nor suggests a multi-level post-tension cable support chair having the claimed characteristics.

The Fisher reference discloses a temporary truss that can be used in exhibitions, displays, and concerts. '068 patent, abstract. A cited subcomponent, V-shaped member 18, includes an apex 11 and two depending legs 23,25, the apex and the distal ends of the legs being provided with hollow cylindrical duct segments 13, 17, and 21 that detachably connect truss tube segments during assembly of the truss device. The V-shaped member, however, is only capable of

AMENDMENT AFTER FINAL ACTION

Appln. No. 10/713,444

Docket No. 442005-00108

providing at most two receptacles positioned at different heights from the bottom of a concrete form. *See id.* at Fig. 2. Thus, the device does not include "at least three receptacles positioned at different... heights" as required in claims 1 and 6. Similarly, the device does not include "at least three receptacles positioned at... equally spaced apart heights" as required in claims 1 and 6. Therefore, independent claims 1 and 6 and dependent claims 3, 5, and 11 cannot be anticipated by Fisher.

Withdrawn claims 15, 21, and 22

Withdrawn dependent claim 15 depends from independent claim 12, which is presently allowable over the art of record. New independent claims 21 and 22 have been submitted as "Withdrawn – new" as permitted by MPEP § 821.03 and the underlying statutes and rules. Withdrawn independent claims 21 and 22 otherwise require all of the limitations of generic independent claim 1 and hence must be considered for rejoinder upon the allowance of generic independent claim 1. MPEP § 821.04. By way of comparison with generic independent claim 1, independent claim 21 requires "a body... including a plurality of receptacles comprising at least three receptacles positioned at different and equally spaced apart heights from the bottom of the concrete form, said receptacles being adapted to support a post-tension reinforcement cable of a predetermined diameter..." Similarly, independent claim 22 requires "a body including... a plurality of receptacles comprising at least three receptacles positioned at different and equally spaced apart heights from the bottom of the concrete form, said receptacles being adapted to support a post-tension reinforcement cable of a predetermined diameter..." Therefore independent claims 21 and 22 "otherwise require all the limitations of" a claim which is presently allowable over the art of record, and are thus themselves allowable over the art of record.

AMENDMENT AFTER FINAL ACTION

Appln. No. 10/713,444

Docket No. 442005-00108

Conclusion

In view of the foregoing remarks, the Applicants respectfully submit that the present claims are allowable over the art of record and pray for a prompt allowance. This paper is being submitted on Monday, November 6, 2006, the nominal shortened statutory period having expired on Saturday, November 4, 2006, and thus we respectfully submit that no extension of time under 37 C.F.R. § 1.136(a) is due. MPEP § 710.05. The Commissioner is authorized to charge any additional fees required or to credit any overpayment to Deposit Account No. 20-0809.

Respectfully submitted,

/s/ David R. Jaglowski
David R. Jaglowski
Reg. No. 58,514

THOMPSON HINE LLP
P.O. Box 8801
Dayton, Ohio 45401-8801
Telephone: (937) 443-6600
Facsimile: (937) 443-6635
E-mail: IPGroup@ThompsonHine.com

454731.1